IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

Crl.Rev.Pet.No. 1120 of 2000()

CC.570/1994 of JUDL. MAGISTRATE OF FIRST CLASS-V, KOZHIKODE
CRA.24/1997 of SESSIONS COURT, KOZHIKODE
.....

REVN. PETITIONER: APPELLANT/ ACCUSED

E.GOPINATHAN, S/O. AYYAPPAN NAIR,
INCHAKKAD HOUSE, CHELEMBRA AMSOM

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENT/ RESPONDENT/COMPLAINANT

STATE OF KERALA, REP.BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 09/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP. NO.1120/2000

ORDER ON CRL.MP. NO.5886/2006 IN CRL.RP. NO.1120/2000

DISMISSED

09.08.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.S. TO JUDGE

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K.R. UDAYABHANU, J.

CRL.R.P.NO. 1120 OF 2000

DATED THIS THE 9th August 2007

ORDER

The revision petitioner stands convicted for the offence under Sections 279, 337 and 338 I.P.C. and sentenced to undergo simple imprisonment for three months each for the offences under Section 279 and 337 I.P.C. and one year for the offence under Section 338 I.P.C. Driving licence was suspended for a period of one year. The prosecution case is that on 26-3-94 at 7 p.m. the accused drove KLN 80088 bus along the Feroke-Nallur Market Road from east to west in a rash and negligent manner and in over speed so as to endanger human life and hit on the front side of an autorikshaw bearing registration No. KL-11/B-7023 which was coming from the opposite direction and the autorikshaw hit on a pedestrian and the incident resulted in injuries to the passengers in the autorikshaw and the pedestrian and the injuries included multiple fractures sustained to Pw1.

2. The evidence adduced in the matter consisted of the testimony of Pws.1 to 13 and Exts.P1 to P11. Of the occurrence witnesses examined, Pws.2 and 3 turned hostile. Pw1, the injured, Pw4, the autorikshaw driver and Pw10 have testified with respect to the incident that the bus was driven in over speed and came through the wrong side and hit on autorikshaw . Pw8, the Assistant Motor Vehicle Inspector has proved Ext.P7 report of the bus which would indicate that there was no mechanical defect to the vehicle. Pw5, the Doctor has proved Exts.P2 to P5 wound certificates that included Ext.P2 wound certificate of Pw1 which disclosed that he had sustained fracture of the right clavicle, right patella displacement and fracture of the 1st rib. The identity of the accused was proved from the versions of Pws.1, 4 and 10. The testimony of Pws.1, 4 and 10 stands unimpeached and no material contradictions has been brought out. In the circumstances, I find no reason to interfere with the concurrent findings of the courts below . The conviction is confirmed.

So far as the sentence is concerned the counsel for the revision petitioner has pleaded for leniency pointing out that more than 13 years have elapsed since the date of the incident and that so far the first accused was facing the ordeal of criminal proceedings. It is also submitted that he is the only earning member of the family. In the circumstances and considering the long delay, the sentence imposed for the offence under Section 338 is modified to imprisonment till the rising of the court and to pay a compensation of Rs.20,000/- to Pw1 and in default to undergo simple imprisonment for three months. No separate sentence is awarded for the rest of the offences. The revision petitioner is granted four months time to pay the compensation. He shall appear before the Judicial First Class Magistrate-V, Kozhikode on 4-12-2007 to receive the sentence. The Crl. revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

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K.R.UDAYABHANU, J

CRL.R.P. NO. 1120 OF 2000
ORDER

9-8-2007